THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17890 of 2003

Dated: 01.11.2007

Between:

Thripuram Narsimha Rao. .. Petitioner

And

The Forest Range Officer,
Manthani of Karimnagar District
and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17890 of 2003

ORDER:

This writ petition is filed for a Writ of Certiorari to call for the records in proceedings vide RC.No.4719/s5/97 of the Divisional Forest Officer, Karimnagar East Division-2nd respondent herein, dated 22.03.1999, as confirmed in CMA.No.39 of 1999, dated 24.06.2003, on the file of the District Judge, Karimnagar, and quash the same being illegal, arbitrary and violative of Article 14 and 19 (1) (g) of the Constitution of India and pass such other suitable orders.

2. The grievance of the petitioner is that without his knowledge, instructions and permission, when his driver was transporting forest produce i.e., teak timber in his (petitioner) lorry bearing No.AEG 797, without permit, the forest officials seized the said lorry containing the forest produce on 27.10.1997 at 8.00 a.m. Thereafter, the 2nd respondent, after conducting an enquiry with regard to the aforesaid forest offence, has passed the proceedings, dated 22.03.1999, ordering for confiscation of the said lorry along with all tools, ropes and teak timber to the State, and the same was confirmed even by the appellate authority i.e., District Judge, Karimnagar, holding connivance of the petitioner in the alleged offence, and hence, the petitioner approached this Court and filed the present writ petition.

3. Heard both the counsel. On a perusal of the material on record, it is clear that on 27.10.1997, the forest officials seized the said vehicle. Though, this Court in W.P.No.948 of 1999, dated 22.01.1999, ordered for release of the said vehicle on a condition that the petitioner shall

deposit the value of the vehicle to be assessed by the second respondent, pending enquiry under the provisions of the A.P. Forest Act, the same could not be complied with by the petitioner, and thus, the vehicle was lying with the forest officials for the last ten years.

4. It is the main contention of the learned counsel for the petitioner that there is absolutely no material to establish that the petitioner, who is the owner of the vehicle, is having the required *mens rea,* and as such, the seizure of the said vehicle and its confiscation to the State are bad in law.

5. Having perused the material, this Court is of the view that though the driver, in his statement, has stated that the petitioner is having knowledge of loading the teak wood in the said vehicle, as the same was done as per his instructions only, but however, as the driver did not attend the enquiry, which was conducted subsequently, the said statement cannot be accepted. Except in the said statement given by the driver that the alleged forest offence was done with the knowledge and instructions of the petitioner only, there is absolutely no evidence to establish connivance of the petitioner in the alleged offence.

6. Subject to the aforesaid observations, this writ petition is allowed only to the extent of releasing the vehicle bearing No. AEG 797, which was seized by the forest officials on 27.10.1997, in favour of the petitioner in 'as is where is condition'. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

Dt.01.11.2007
Note: Furnish CC in four days
B/o
v v